

**Chrysler Corporation and International Union,
United Automobile, Aerospace and Agricultural
Implement Workers of America, UAW.
Case 25-CA-22090**

December 15, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS OVIATT
AND RAUDABAUGH

On August 26, 1992, the General Counsel of the National Labor Relations Board issued a complaint and notice of hearing alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain following the Union's certification in Case 25-RC-9117. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed its answer admitting in part and denying in part the allegations in the complaint.

On November 2, 1992, the General Counsel filed a Motion for Summary Judgment. On November 5, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent and the Charging Party filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

In its answer the Respondent admits its refusal to bargain but attacks the validity of the certification on the basis of the Board's unit determination in the representation proceeding.¹

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

¹ The Employer requested review of the Regional Director's decision that the industrial engineers were not managerial or confidential employees and that an election was not barred by an agreement between the Union and the Employer. The Board denied review by Order dated April 24, 1992.

FINDINGS OF FACT

I. JURISDICTION

The Respondent, with its principal office and place of business located in Highland Park, Michigan,² has maintained a manufacturing facility located in Kokomo, Indiana, where it is engaged in the manufacture, sale, and distribution of automotive transmissions. During the past 12-month period, a representative period, the Respondent, in the course and conduct of its business operations, purchased and received at its Kokomo Transmission plant products, goods, and materials valued in excess of \$50,000 directly from points outside the State of Indiana. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Certification

Following the election held May 14, 1992, the Union was certified on May 26, 1992, as the collective-bargaining representative of the employees in the following appropriate unit:

All industrial engineers, including the positions of Manufacturing Expense Standards Engineer B., Methods and Standards Engineer A, and Methods and Standards Engineer, Sr.,

plus

all employees in the classification of Analyst-Quality Control in Department 26; all employees in the classification of Investigator—Tool Costs, Engineer—Tool Engineering; all employees in the classification of Designer—Tool and Die in Department 32; all employees in the classification of Technician-Laboratory Engineering and Chemist and/or Metallurgist—Manufacturing in Department 38; all employees in the classifications of Engineer—Plant Engineering and Draftsman—Tool and Plant Engineering in Department 50 and employees in the classifications of Groundkeeper, Technician—Assembly and Test and Technician Engineering—Development and Console Operator (Classification 150); all salaried technical employees in department 17, including Technicians—Engineering Development (Classification 575) and Chemists or Metallurgists—Manufacturing (Classification 203) of Chrysler Corporation, Kokomo Transmission Plant, Kokomo, Indiana;

² The Respondent's location is modified as set forth in its answer to the complaint and as stipulated in the General Counsel's Motion for Summary Judgment.

but excluding

all confidential employees, office clerical employees, plant clerical employees, professional employees, guards and supervisors as defined in the Act, and all other employees.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. Refusal to Bargain

Since May 20, 1992, the Union has requested the Respondent to bargain and, since July 22, 1992, the Respondent has refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By refusing on and after July 22, 1992, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, Chrysler Corporation, Kokomo, Indiana, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, as the exclusive bargaining representative of the employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All industrial engineers, including the positions of Manufacturing Expense Standards Engineer B., Methods and Standards Engineer A, and Methods and Standards Engineer, Sr.,

plus

all employees in the classification of Analyst-Quality Control in Department 26; all employees in the classification of Investigator—Tool Costs, Engineer—Tool Engineering; all employees in the classification of Designer—Tool and Die in Department 32; all employees in the classification of Technician-Laboratory Engineering and Chemist and/or Metallurgist—Manufacturing in Department 38; all employees in the classifications of Engineer—Plant Engineering and Draftsman—Tool and Plant Engineering in Department 50 and employees in the classifications of Groundkeeper, Technician—Assembly and Test and Technician Engineering—Development and Console Operator (Classification 150); all salaried technical employees in department 17, including Technicians—Engineering Development (Classification 575) and Chemists or Metallurgists—Manufacturing (Classification 203) of Chrysler Corporation, Kokomo Transmission Plant, Kokomo, Indiana;

but excluding

all confidential employees, office clerical employees, plant clerical employees, professional employees, guards and supervisors as defined in the Act, and all other employees.

(b) Post at its facility in Kokomo, Indiana, copies of the attached notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 25, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

³ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, as the exclusive representative of the employees in the bargaining unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All industrial engineers, including the positions of Manufacturing Expense Standards Engineer B., Methods and Standards Engineer A, and Methods and Standards Engineer, Sr.,

plus

all employees in the classification of Analyst-Quality Control in Department 26; all employees

in the classification of Investigator—Tool Costs, Engineer— Tool Engineering; all employees in the classification of Designer—Tool and Die in Department 32; all employees in the classification of Technician-Laboratory Engineering and Chemist and/or Metallurgist—Manufacturing in Department 38; all employees in the classifications of Engineer—Plant Engineering and Draftsman—Tool and Plant Engineering in Department 50 and employees in the classifications of Groundkeeper, Technician—Assembly and Test and Technician Engineering—Development and Console Operator (Classification 150); all salaried technical employees in department 17, including Technicians—Engineering Development (Classification 575) and Chemists or Metallurgists—Manufacturing (Classification 203) of Chrysler Corporation, Kokomo Transmission Plant, Kokomo, Indiana;

but excluding

all confidential employees, office clerical employees, plant clerical employees, professional employees, guards and supervisors as defined in the Act, and all other employees.

CHRYSLER CORPORATION